

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
LAMIS ALKHARSA,

Plaintiff,

**RULE 26 DISCLOSURE**

Docket No.: 08-CIV-4254(JGK)

- against -

NEW HANG DAR CONSTRUCTION, INC., JIMMY  
HO, BRIAN ILL DEVELOPMENT, LLC, BRIAN ILL,  
MADALEX, LLC, SCOTT EDELSTEIN, ALEX TEREZ,  
EMPIRE MANAGEMENT AMERICA CORP. a/k/a  
EMPIRE MANAGEMENT, and FRED SHALOM,

Defendants.  
-----X

C O U N S E L :

**PLEASE TAKE NOTICE**, that defendants, **NEW HANG DAR CONSTRUCTION, INC. and JIMMY HO**, by their attorneys, **MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.**, makes the following disclosure pursuant to Rule 26(a)(1), of the Federal Rules of Civil Procedure:

(A) The name, and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing parties may use to support their claims or defenses, unless the use will be solely for impeachment:

1. Lamis Alkharsa;
2. Roua Alturkmani (daughter of the plaintiff);
3. Jimmy Ho, 51-58 Manilla Street, First Floor, Elmhurst, New York 11373;
4. Zhui Ying Lin (Employee of New Hang Dar Construction, Inc.), 51-21

Van Loon Street, Elmhurst, New York 11373;

5. Minqing Chen (Employee of New Hang Dar Construction, Inc.), 51-21 Van Loon Street, Elmhurst, New York 11373;

6. Tao Lin (Employee of New Hang Dar Construction, Inc.), 51-21 Van Loon Street, Elmhurst, New York 11373;

7. Brian Ill; 611 Riverside Avenue, Westport, CT 06880;

8. Scott Edelstein, 10 Old Jackson Avenue, Hastings-on-Hudson, New York 10706;

9. Alex Terez, 150 Broad Hollow Road, Melville, New York 11747, and

10. Fred Shalom, 347 Fifth Avenue, New York, New York 10016.

(B) A copy, or a description by category and location, of all documents, electronically stored information, and tangible things that the disclosing parties have in their possession, custody or control and they will use to support their claims or defenses, unless the use should only be solely for impeachment.

See documents annexed hereto.

(C) A computation of any category of damages claimed by the disclosing parties, who must also make available for inspection, copying, as under Rule 34 of the documents evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of the injuries suffered.

(D) Defendants, **NEW HANG DAR CONSTRUCTION, INC. and JIMMY HO**, are not presently in possession, custody or control of any such documents.

(E) For inspection and copying under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse the payments made to satisfy the judgment:

Defendants, **NEW HANG DAR CONSTRUCTION, INC. and JIMMY HO**, are provided with primary insurance coverage through Aspen Specialty Insurance Company, located at 600 Atlantic Avenue, 20th Floor, Boston, Massachusetts 02210; policy number NC00251-03; policy limits \$1,000,000 per occurrence in effect 5/31/07 - 5/31/08.

(F) Expert Disclosure: The Defendants, **NEW HANG DAR CONSTRUCTION, INC. and JIMMY HO**, have not presently retained any expert witness to testify at the time of the trial of this action. Upon the retention of these experts, defendants, **NEW HANG DAR CONSTRUCTION, INC. and JIMMY HO**, will disclose information pertaining to said expert witness(es) pursuant to F.R.C.P. 26(a)(2).

Dated: Elmsford, New York  
August 19, 2008

By: \_\_\_\_\_  
James M. Skelly (JMS/4844)

By: \_\_\_\_\_  
Kevin W. Connolly (KWC/4450)

**MARKS, O'NEILL, O'BRIEN  
& COURTNEY, P.C.**  
Attorneys for Defendants  
**NEW HANG DAR CONSTRUCTION,  
INC. and JIMMY HO**  
530 Saw Mill River Road  
Elmsford, New York 10523  
(914) 345-3701  
File No.: 495.81794

TO:

**ROBERT G. LEINO, ESQ.**

Attorney for Plaintiff

**LAMIS ALKHARSA**

354 East 91<sup>st</sup> Street, Apt. 1101

New York, New York 10128

(212) 289-8357

**DAVID I. BARRETT, ESQ.**

Attorney for Defendants

**BRIAN ILL and BRIAN**

**ILL DEVELOPMENT, LLC**

600 Madison Avenue, 22<sup>nd</sup> Floor

New York, New York 10022

(212) 588-1000

**CHARLES J. SIEGEL, ESQ.**

Attorney for Defendants

**MADALEX, LLC, SCOTT**

**EDELSTEIN and ALEX TEREZ**

40 Wall Street, 7<sup>th</sup> Floor

New York, New York 10005

(212) 440-2350

**HAVKINS, ROSENFELD,**

**RITZERT & VARRIALE, LLP**

Attorneys for Defendants

**EMPIRE MANAGEMENT AMERICA**

**CORP. a/k/a EMPIRE MANAGEMENT**

**and FRED SHALOM**

114 Old Country Road, Suite 300

Mineola, New York 11501

(516) 471-1900

## **AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK )  
 : ss:  
COUNTY OF WESTCHESTER )

JANICE GRILLO, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Mahopac, New York.

On the       day of August, 2008, deponent served the within **RULE 26 DISCLOSURE**, upon the parties herein stated below, by depositing and mailing same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service within the State of New York, at the following addresses:

TO:

**ROBERT G. LEINO, ESQ.**

Attorney for Plaintiff

**LAMIS ALKHARSA**

354 East 91<sup>st</sup> Street, Apt. 1101

New York, New York 10128

(212) 289-8357

**DAVID I. BARRETT, ESQ.**

Attorney for Defendants

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RITZERT & VARRIALE, LLP**  
Attorneys for Defendants  
**EMPIRE MANAGEMENT AMERICA  
CORP. a/k/a EMPIRE MANAGEMENT  
and FRED SHALOM**  
114 Old Country Road, Suite 300  
Mineola, New York 11501  
(516) 471-1900

---

JANICE GRILLO

Sworn to before me on this  
day of August, 2008.

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NOTARY PUBLIC

# ACORD CERTIFICATE OF LIABILITY INSURANCE

<b>PRODUCER</b> Wilkin Chu & Associates Inc. 41-47 150th Street Flushing NY 11355 Phone: 718-359-2000 Fax: 718-359-2194		OP ID JH NEWHA-1 DATE (MM/DD/YY) 10/16/
<b>INSURED</b> New Hang Dax Construction Inc. 51-21 Van Leen Street 1st Fl. Elmhurst NY 11373		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
<b>INSURERS AFFORDING COVERAGE</b>		<b>NAIC #</b>
INSURER A: Aspen Specialty Insurance		
INSURER B: Zurich Ins Co		
INSURER C:		
INSURER D:		
INSURER E:		

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURANCE TYPE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	NC000251-03	05/31/07	05/31/08	EACH OCCURRENCE \$ 1000000
					DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 50000
					MED EXP (Any one person) \$ 5000
					PERSONAL & ADV INJURY \$ 1000000
					GENERAL AGGREGATE \$ 2000000
					PRODUCTS - COMPROP AGG \$ 1000000
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
					AUTO ONLY - EA ACCIDENT \$
					OTHER THAN AUTO ONLY: EA ACC \$
					AGG \$
					EACH OCCURRENCE \$
					AGGREGATE \$
	<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				
	<input type="checkbox"/> EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS \$
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
B	Disability	5359489-001	01/01/07	12/31/07	Disability Statutory

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 Job site: 216 8th Avenue, New York, NY/Additional insured: Chelsea 8th Avenue LLC, and Empire Management and Qdoba Restaurant Corp., as additional insured.

## CERTIFICATE HOLDER

**CHELSEA**  
 Chelsea 8th Avenue LLC  
 347 5th Avenue Suite 1600  
 New York NY 10016

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 20 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*[Signature]*



# New York State Insurance Fund

Workers' Compensation & Disability Benefits Specialists Since 1914

189 CHURCH STREET, NEW YORK, N.Y. 10007-1100  
Phone: (212) 587-5506

## CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

\*\*\*\*\*

NEW HANG DAR CONSTRUCTION INC  
51-21 VAN LOON STREET-1ST FLOOR  
ELMHURST NY 11373

**POLICYHOLDER**  
NEW HANG DAR CONSTRUCTION INC  
51-21 VAN LOON STREET-1ST FLOOR  
ELMHURST NY 11373

**CERTIFICATE HOLDER**  
CHELSEA 8TH AVENUE LLC  
347 5TH AVENUE SUITE 1600  
NEW YORK NY 10016

**POLICY NUMBER**  
Q 1478 790-7

**CERTIFICATE NUMBER**  
952181

**PERIOD COVERED BY THIS CERTIFICATE**  
05/15/2007 TO 05/15/2008

**DATE**  
10/16/2007

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1478 790-7 UNTIL 05/15/2008, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

IF SAID POLICY IS CANCELLED, OR CHANGED PRIOR TO 05/15/2008 IN SUCH MANNER AS TO AFFECT THIS CERTIFICATE, 10 DAYS WRITTEN NOTICE OF SUCH CANCELLATION WILL BE GIVEN TO THE CERTIFICATE HOLDER ABOVE. NOTICE BY REGULAR MAIL SO ADDRESSED SHALL BE SUFFICIENT COMPLIANCE WITH THIS PROVISION. THE NEW YORK STATE INSURANCE FUND DOES NOT ASSUME ANY LIABILITY IN THE EVENT OF FAILURE TO GIVE SUCH NOTICE.

THIS CERTIFICATE DOES NOT APPLY TO BUILDING DEMOLITION

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

*John Manetti*  
DIRECTOR, INSURANCE FUND UNDERWRITING

U-26.3 This certificate can be validated on our web site at <https://www.nysif.com/cert/certval.asp> or by calling (888) 875-5790  
VALIDATION NUMBER: 562505341



# NYC BUILDINGS

## Work Permit Department of Buildings

Permit Number: 104929561-01-EQ-FN

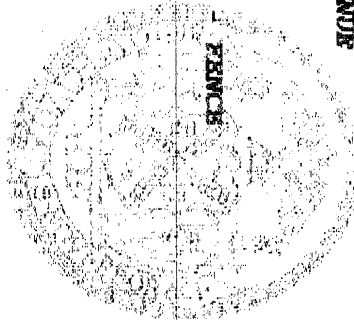
Issued: 10/15/2007 Expires: 12/31/2007

Address: MANHATTAN 216 8 AVENUE

Description of Work:

ALT2 - CONSTRUCTION EQUIPMENT

FENCES



For detailed information regarding this permit, please log on to BLSWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christine A. Sattell* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

p.3

HP LASERJET FAX 15 2007 3:01PM

# NYC BUILDINGS

## Work Permit Department of Buildings

Permit Number: 104929562-01-EW-07

Issued: 10/15/2007 Expires: 04/01/2008

Address: MANHATTAN 216 8 AVENUE

Description of Work:

ALT2 - GC  
removal of partitions, counters, duct work and hood, plumbing fixtures and

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christine A. Seckell* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

**NEW HANG DAR CONSTRUCTION INC.**  
**51-21 Van Loon Street**  
**Elmhurst, NY 11373**

October 10, 2007

Mr. Brian Ill  
Brian ILL Development LLC  
ARCHITECT

**PROJECT:** Qdoba Mexican Grill  
216 Eighth Avenue  
New York, NY

**Contract Agreement**

**Scope of work and price breakout:**

**GENERAL CONIDITIONS** ..... Included  
Insurances, site supervision etc.

**CLEANING AND REFUSE** ..... Included

**STOREFRONT**... Construction fence per NYC code.  
Windows and doors per plan and spec.  
**CARPENTRY**... Partitions, ceilings, wall finishes  
per standard Qdoba design criteria.

**ELECTRICAL** ..... Not part of this agreement..  
Per plan and spec. Using buildings existing service.

**PLUMBING** .....  
Per plan and spec. Not part of this agreement.  
Includes mop sink and waste levers for all sinks.

**HVAC** ..... Not part of this agreement  
Reuse existing HVAC unit.

**EXHAUST** ..... Not part of this agreement  
(revise exist. exhaust. Duct )

**FINISHES**

As per standard Qdoba plan and spec.  
**DOORS AND HARDWARE** .....  
Per plan and spec.

**PAINTING**

Per plan and standard Qdoba specifications.

**TILE.....**As per Qdoba plan and specifications.

**MISCELLANEOUS.....**

RECEIVE OWNER SUPPLIED ITEMS, DISCARD

**REFUSE AND SET IN PLACE.....**

CORE DRILL TABLE BASES.....

**TOTAL CONTRACT AMOUNT FOR THE ABOVE SERVICES THE SUM  
OF.....**\$ 72,000.00

Our proposal includes supervision of construction and the coordination  
of owner supplied items. (Small wares and food items are not included)

**Exclusions:**

- Overtime & phasing
- Front counter, sneeze guard and ceiling fan unit.
- Signage and sign permitting
- Any work required beyond demised space.
- Alarm system and cable TV system work
- Hazardous Waste and/or Asbestos removal

**Progress Payments:**

Due upon signing initial agreement.....\$20,000.00

Due upon completion of roughing.....\$20,000.00

Due upon equipment delivery to site.....\$20,000.00

Due upon completion of construction, sign-offs and approvals.....\$12,000.00

Brian ILL



Brian ILL, Owners representative

New Hang Dar Construction Inc.



Jimmy Ho, President

N. Y. S. DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS AND STATE RECORDS

ALBANY, NY 12231-0001

FILING RECEIPT

ENTITY NAME: NEW HANG DAR CONSTRUCTION INC.

DOCUMENT TYPE: INCORPORATION (DOM. BUSINESS)

COUNTY: QUEE

SERVICE COMPANY: INTERSTATE FILING CORPORATION

SERVICE CODE: F0 \*

FILED: 11/30/2004 DURATION: PERPETUAL CASH#: 041130000404 FILM #: 041130000380

ADDRESS FOR PROCESS

ZHUI YING LIN  
51-21 VAN LOON STREET 1/FL  
ELMHURST, NY 11373

EXIST DATE

11/30/2004

REGISTERED AGENT

STOCK: 200 NPV

FILER	FEES	PAYMENTS
CAAT INC	125.00	CASH 0.00
17 EAST BROADWAY #204	TAX 10.00	CHECK 0.00
NEW YORK, NY 10002	CERT 0.00	CHARGE 0.00
	COPIES 0.00	DRAWDOWN 160.00
	HANDLING 25.00	BILLED 0.00
		REFUND 0.00

NEW

DOS-1025 (11/89)